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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/923,428      | 08/08/2001  | Kiyoshi Nagasawa     | 500.40462X00        | 9947             |

24956 7590 09/22/2005

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.  
1800 DIAGONAL ROAD  
SUITE 370  
ALEXANDRIA, VA 22314

EXAMINER

ELAHEE, MD S

ART UNIT PAPER NUMBER

2645

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                        |  |
|------------------------------|--------------------------------------|----------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/923,428 | <b>Applicant(s)</b><br>NAGASAWA ET AL. |  |
|                              | <b>Examiner</b><br>Md S. Elahee      | <b>Art Unit</b><br>2645                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,5 and 9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                                             |                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                        | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/8/01</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to an amendment filed on 07/07/05. Claims 1, 5 and 9 are pending. Claims 2-4, 6-8 and 10-12 have been cancelled.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 5 and 9 have been fully considered but are moot in view of the new ground(s) of rejection which is deemed appropriate to address all of the needs at this time.

### ***Specification***

3. The objections to the specification are withdrawn, as the proposed specification corrections are approved.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1, 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenji et al. (Japanese Pub. No. 09-162908) and in view of Foladare et al. (U.S. Patent No. 5,805,991).

Regarding claim 1, Kenji teaches determining whether data communication between a terminal equipment 102 and a host device 101 [i.e., data communication apparatus] has been interrupted by disconnection of a communication line (abstract; page 4, step 11 of paragraph 0016 of Detailed Description).

Kenji further teaches in response to normal termination of data communication between a terminal equipment 102 and a host device 101, clearing flag on data communication that was interrupted between the terminal equipment 102 and a host device 101 by disconnection of a communication line within a predetermined time before the normal termination of the data communication (abstract; fig.1-5; page 4, step 11 of paragraph 0016 of Detailed Description).

However, Kenji fails to teach “portable information communication terminal”. Foladare teaches pager [i.e., portable information communication terminal] (fig.1, item 103; col.3, lines 15-17). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kenji to incorporate a portable information communication

terminal as taught by Foladare. The motivation for the modification is to have doing so in order to provide wireless communication session for transferring data without any inconvenience.

Kenji teaches clearing flag on data communication (abstract; fig.1-5; page 4, step 11 of paragraph 0016 of Detailed Description). However, Kenji does not specifically teach clearing accounting. Foladare teaches discarding [i.e., clearing] billing record [i.e., accounting] (fig.4, item 534; col.6, lines 31-36). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kenji to incorporate clearing accounting as taught by Foladare. The motivation for the modification is to have doing so in order to adjust billing record for interrupted call session.

Regarding claims 5 and 9 are rejected for the same reasons as discussed above with respect to claim 1. Furthermore, Kenji teaches a protocol processing section 104 [i.e., communication situation control section] and a communication state monitor section 105 [i.e., accounting calculation section] (abstract; fig.1; page 4, step 11 of paragraph 0016 of Detailed Description).

### *Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S. Elahee whose telephone number is (571) 272-7536. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M.E.

MD SHAFIUL ALAM ELAHEE  
September 17, 2005



**FAN TSANG**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600